

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SAMUEL KATZ and LYNNE RHODES,
individually, and on their own behalf and
on behalf of all others similarly situated,

Plaintiffs,

v.

LIBERTY POWER CORP., LLC,
LIBERTY POWER HOLDINGS, LLC,
Delaware limited liability companies,

Defendants.

LIBERTY POWER CORP., LLC, and
LIBERTY POWER HOLDINGS, LLC,

Third-Party Plaintiffs,

v.

MEZZI MARKETING, LLC,

Third-Party Defendant.

No. 1:18-cv-10506

**CONSENT MOTION TO STAY
DEFENDANTS' COUNTERCLAIM
AGAINST PLAINTIFF SAMUEL KATZ**

Plaintiffs Samuel Katz and Lynne Rhodes ("Plaintiffs"), hereby move this Court for the entry of an order staying Defendants' counterclaim against Plaintiff Samuel Katz, together with all proceedings ancillary to such counterclaim, until the resolution of the appeals pending in the action titled *Liberty Power Corp., LLC v. Katz*, No. 18-017922, filed in the Circuit Court for the 17th Judicial Court in and for Broward County, Florida.

1. On July 27, 2018, Liberty Power Corp., LLC ("Liberty" or "Defendant") filed a lawsuit against Plaintiff Samuel Katz ("Katz") for violating the Florida Security of Communications Act (Fla. Stat. § 934.01, et seq.) in the Circuit Court for the 17th Judicial Court in and for Broward County, Florida ("Florida Action"). On September 11, 2019, the Florida trial court dismissed the Florida Action for lack of personal jurisdiction without prejudice. Both Katz and Liberty have filed notices of appeal with respect to the September 11, 2019 order to the

Florida Fourth District Court of Appeal which are pending in the Florida state court system (the “Appeals”).

2. On October 22, 2019, Liberty filed a counterclaim against Katz in this case, based on the same events and alleging the same causes of action. (ECF No. 198.) On November 7, 2019, Katz filed a motion to dismiss the counterclaim. (ECF No. 203.) On November 21, 2019, Liberty filed its first amended counterclaim against Katz. (ECF No. 209.)

3. The parties desire to take steps to make the litigation of their respective claims as efficient as possible. The parties have agreed to the entry an order by the Court staying further proceedings on Liberty’s counterclaim, including any discovery on Liberty’s counterclaim (and specifically including written discovery emailed on November 14, 2019, a notice of deposition of David Parisi emailed on November 22, 2019, and a subpoena and notice of deposition of David Parisi emailed on November 26, 2019, as well as any further discovery directed at discovery on the counterclaim alleged by Liberty. Such stay shall not encompass or cover any of the claims alleged in Plaintiffs’ complaints, or any of the discovery served by Plaintiffs in this case regarding such claims.)

4. The stay shall continue until both (1) the Appeals are settled by the parties or until they are finally resolved in the Florida court system and judgment is entered in favor of one party or another, and (2) Defendants formally serve Plaintiffs with notice that Defendants are resuming litigation before this Court. All the parties’ deadlines as to Defendants’ counterclaim (including discovery deadlines and deadlines for motion practice) shall be tolled until 30 days after the expiration of the stay.

5. Under ordinary operation of Rule 12(a)(1)(B), Plaintiffs’ deadline to serve a responsive pleading to Defendants’ first amended counterclaim is December 12, 2019.

6. The parties hereby stipulate and agree that Plaintiffs' deadline to respond to Defendants' November 2019 discovery shall be continued and tolled until the Court rules on this Motion.

7. This stay will not prejudice any party or the Court. Defendants have consented to the relief sought herein.

WHEREFORE, Plaintiffs, with consent from counsel for Defendants, move this Court for the entry of an Order staying further proceedings on Liberty's counterclaim, including any discovery on Liberty's counterclaim, and granting any other relief this Court deems just and proper.

Dated: December 3, 2019

By: s/Ethan Preston

Ethan Preston

ep@eplaw.us

PRESTON LAW OFFICES

4054 McKinney Avenue, Suite 310

Dallas, Texas 75204

Telephone: (972) 564-8340

Facsimile: (866) 509-1197

Yitzchak H. Lieberman

ylieberman@parasmoliebermanlaw.com

Grace E. Parasmol

gparasmol@parasmoliebermanlaw.com

PARASMO LIEBERMAN LAW

7400 Hollywood Boulevard, Suite 505

Los Angeles, California 90046

Telephone: (917) 657-6857

Facsimile: (877) 501-3346

David C. Parisi

dcparisi@parisihavens.com

Suzanne Havens Beckman

shavens@parisihavens.com

PARISI & HAVENS LLP

100 Pine Street, Suite 1250

San Francisco, California 94111

Telephone: (818) 990-1299

Facsimile: (818) 501-7852

*Attorneys for Plaintiff Plaintiffs Samuel Katz and
Lynne Rhodes, on their own behalf, and behalf of
all others similarly situated*

CERTIFICATE OF SERVICE

I, Ethan Preston, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: December 3, 2019 By: s/Ethan Preston
Ethan Preston

CERTIFICATE OF LOCAL RULE 7.1(b) COMPLIANCE

I, Ethan Preston, hereby certify that Plaintiffs have complied with the provisions of Local Rule 7.1(b) prior to bringing this motion.

Dated: December 3, 2019 By: s/Ethan Preston
Ethan Preston